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TRIAL TRIED;

OR,

THE BISHOP AND THE COURT

AT THE

BAR OF PUBLIC OPINION.

BY LAICUS.

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THE TRIAL TRIED.

We are at length in possession of all the documents which are likely to come before the public, calculated to throw light upon the proceedings against the Bishop of New York. We have the "Narrative of the Rev. Paul Trapier" of South Carolina, intended as his own defence of himself, against the charge of improper motives, in the promotion of the prosecution; which, (however we may regard it in that light alone,) does unquestionably, give us a considerable insight into what we may call the "secret history" of the movers in the transaction. We have the testimony given in the case, published under the authority of the Court itself, and therefore to be regarded as the ground upon which the question of the justice of the verdict will mainly turn, in the public mind. We have the arguments of several of the Bishops, presenting their views of the evidence, and with various degrees of learning and clearness, discussing the questions presented to them for judgment. And, finally, we have the statement of Bishop Onderdonk himself, which may be regarded as an affidavit after the finding, going to show why sentence should not pass according to the verdict. We propose to examine these several documents according to our best judgment, and from the whole of them make up such a history of this remarkable case, as shall present all its important points in the light of truth and justice.

And here, it is due to candour that we should say, we do not make any pretension of going into this examination, without having a strong feeling on the subject. No man, properly impressed by the importance of a religious life, can help such a feeling. Whatsoever judgment he may have found himself constrained to form upon the result of the trial, he cannot shut his eyes to the great scandal of the whole business. His ear has been daily shocked by the scoffings of the irreligious and the infidel, against all holy things, and sacred offices—and his heart continually wounded by the imputation of hatred, malice, and all uncharitableness, in the highest ranks of God's ministers. On the one hand, he finds men whose stations com-

mand his respect, upon certain testimony, pronouncing a brother guilty of the most detestable conduct; while others, their equals in station and intellect,—against whose walk and conversation even slander dares not breathe a word,—upon precisely the same evidence, and under the same solemn responsibilities, pronounce him innocent! Under such circumstances, he cannot help asking himself the question, shocking at once to his religious feeling, and shaking to its very centre his faith in the purity of his spiritual teachers: nay, almost making him doubt whether religion itself be not a mockery! can there be behind these acts an unavowed motive? Have any other questions than what are spread upon the record, influenced the judgment of the majority or the minority, in these most lamentable proceedings?

Before entering upon the examination of the documents we have enumerated, we observe, that subsequently to the publication of Mr. Trapier's "narrative," another pamphlet has appeared from the pen of James Richmond, a presbyter of Rhode Island. The leading object of this remarkable production appears to be to claim for its author a share, at least, in the glory of having instituted these proceedings, if not, indeed, to make himself out to be, the "ipsissimus ipse" of the "conspiracy." We shall not waste time in inquiring to whom is to enure the credit of this unhappy business; and if we were disposed to enter on that question, the obvious mental infirmity of the unfortunate author of this pamphlet, should protect him from that severity of criticism, to which a clear-headed man, responsible for such a production, would be justly liable. Even a demented man, however, has no claim to exemption from chastisement, when his vagaries become dangerous; and, therefore, inasmuch as others do not hesitate to use, whatever method there is in the man's madness, to their own ends, we wish to remind them, before they trust too implicitly to him, that he stands strangely charged, in the statement of Bishop Onderdonk, (p. 7,) with having applied to him to let him come back into the Diocese of New York, *that he might be his friend, and stand by him in his troubles.* Now his testimony against the Bishop is only valuable, on the ground that his mind is healthy enough to make him a responsible agent. But to admit that point without a denial of the above allegation, would almost compel us to conclude him little better than—a man of no principle! Either horn of the dilemma is fatal, and Mr. Richmond's advocates or "*users*" must choose between them. For ourselves, while we commiserate the man's condition, we condemn the more strongly, all who use such a person to subserve any purpose, instead of caring for his deplorable need in the walls of an asylum.

The "Narrative" of Mr. Trapier is professedly designed to clear him from the imputation of improper motives, in promoting the presentment. It is foreign to our purpose in this review to inquire how far he has succeeded in his avowed object. But however that point may be decided in the public mind, one thing at least may be taken pro confesso, that upon his own showing, there would have been no presentment had not the Carey ordination happened to produce an excitement, in which the Diocese of South Carolina partook!* Now, upon this assumption or admission, it is plain that the immoral conduct of the Bishop was not enough to cause his trial:

* Narrative of P. Trapier, p. 5.

because these immoralities, if they ever happened at all, happened before that ordination, and the rumours of them were more or less widely circulated. The Bishop too, was certainly not without his "unfriends" in his own Diocese, previous to that period—men, who, if there had been anything tangible in these stories, would never have pleaded their sympathy with him on doctrinal points, as a reason for neglecting for years their plain duty, of arresting his vicious career. How then did it happen, that this investigation was never made until after, (as we understand is admitted on all hands,) "a change of demeanour had taken place," and then, not until his assertion of certain doctrinal views had so vexed the minds of churchmen, (?) that the time seemed to be "*propitious*" to inquire into his morals. Because, either he was guilty of these acts, or he was innocent. If guilty, his guilt was known to many, for years before the Carey ordination; and then, to postpone his trial for known and *provable* immoralities, till he had made himself obnoxious on other grounds, having no reference to moral defects, is manifestly to try him upon "false pretences." On the other hand, the Carey ordination was a wrong doing that merited censure, or it was a proper act. If a wrong doing, it was a plain duty of the three Bishops who censured the act in the newspapers, to present him for that, without waiting to learn whether rumours affecting his moral character could be substantiated by testimony! But, failing to take such a step a year ago, to condemn him now, for acts of immorality long past, when silence —so far as trial goes—had been kept for a time on both points—because of the trouble that grew out of the ordination—is again a "false pretence!" In fine, turn this matter as we may, there is no getting over the fact, confessed by the pamphlet, and not denied as we have heard, in any quarter, that his immoralities alone, however atrocious and abominable, never would have procured the presentment! And a most astounding fact it is, to our judgment! A fact utterly ruinous to the character of all concerned —black—damning! The public mind revolts at it, and stamps it as base. This, on the supposition of the Bishop's guilt. But how will the matter stand, on the supposition of his innocence? Even worse! For then, it would appear, that the whole thing is a contemptible juggle—that the offence being in his doctrines, the rumours of immoral conduct were revived to procure his destruction, and that there *was a real* "*conspiracy*," which had that for its end, and was prepared to use any means to effect it!

In a word, the history of the getting up of these deplorable proceedings, as detailed by the parties themselves, presents a picture of malice and revenge, as revolting as the conduct which is charged on the Bishop. It is self-branded, too, with falsehood! A strong word, doubtless, but the only fit one! For they say, we knew this man for years to have been guilty of these crimes. We did not present him for them, for the time was not "propitious." He amended his life; he ordained Mr. Carey; an excitement grew out of that act, and the time *was* "propitious!"

The statement of Bishop Onderdonk himself, helps to throw light on the question of the moving causes of the proceedings, as well as upon the conduct of the parties engaged. It is written in a calm and Christian spirit; and to our minds has an air of truth about it, that is calculated to impress us favourably towards him. We should not have been surprised, however we might have lamented it, had the bishop repaid some of the cruel treat-

ment he has received, with harsh and biting words; but we commend to the respect of all men the generally temperate tone of the whole statement; and especially thank him, as Christian men, for the meekness and long-suffering which he displays, in remarking upon those who gave evidence on the trial. So far as this statement touches the points on which Mr. Trapier has written, it goes to confirm the impressions which his pamphlet had made on our minds. But it opens other matters essential to a right view of the whole case, which may not be overlooked. Bishops, on their consecration, do not cease to be men; and they are to be judged in many things, as men. We yield to nobody in our just reverence for their sacred office; but they are required to have "a good report of them which are without." God alone seeth the heart; his creatures can judge of it and its impulses only by the outward act. The Bench of Bishops, viewed as to its possible call to act in a high judicial capacity, as a court of final jurisdiction, and as containing in its own limits, the various offices of prosecutor to present for trial, jury to pass on evidence, judge to affix the award of punishment upon conviction, and executioner to carry out and enforce its own tremendous judgments—is an organization altogether anomalous. Clothed with such extreme powers and invested with such awful responsibilities, we naturally look for a demeanour of corresponding dignity and gravity. Especially do we expect that they will hold themselves sternly aloof from every influence that can warp their judgments, or give undue prominence to any collateral branch of objection against one, whom they see they may be likely to have before them, under a grave accusation, on which they alone will have to pass. This we expect of the lawyer, elevated to the judicial bench. For the civil judge to act towards the defendant at his bar, as if he took his guilt for granted, (even when he stood indicted by the grand jury,) would bring upon him a storm of indignation from his brethren, and from the profession at large, that would drive him in utter shame from the seat, which his infirmity of soul disgraced! But the civil judge, however partial or prejudiced, can work but a temporary and limited evil. His wrong-headed decisions may be reviewed. And moreover, on him it rests not, in any wise, to decide the question of guilt or innocence. Nor can he influence the judgment, in case of an adverse decision, except within the bounds of a discretion, fixed by the law. But the Court of Bishops is a very different agent. Its powers are immensely greater. If it err, either from defective judgment or from wilful perversity, its decision is final. There is no redress for the innocent unjustly condemned—no means to reach the authors of the wrong. How important then, that the court be so pure, that its decision may command the instantaneous assent of all!—that all the conduct of all its members be such, as to command universal respect! Is that the position which this court does or ought to occupy in the judgment of mankind?

When we consider how vital the lightest decision of such a body as the Court of Bishops is, not merely to him who is the subject of it, but to the great interests of religious observance, in the world at large, such a question as this assumes a paramount importance. An innocent brother may be sacrificed on the altar of theological dispute, or a guilty one screened by the force of party bias. The evil, so far as he is concerned, is comparatively small. Destroy one Bishop, and his people, compelled to submit,

can elect another, and enjoy all the benefits of episcopal superintendence. Screen one Bishop, clearly guilty of heinous offences, and yet, though the value of his services be impaired by the loss of his people's confidence, some of the great ends of his office can yet be obtained, and the diocese over which he rules, however unworthily, be not brought to a dead stand. But, if the whole body of which such a Bishop is only one member, fail to command the respect of the world for any just cause, and the evil be found to be without remedy, the condition of the Church becomes truly deplorable. It would seem, in such a case, as if the promise of Him who cannot lie, had at least begun to fail! Unhappily, this evil does exist to a certain extent. But it is not remediless--we are not "without hope." The remedy is to be found in a correcter notion of the functions and office of this court, in its various capacities, than appears to have obtained among its members, as yet. We are far from being disposed to condemn, as men resolved upon evil, all the Bishops, who could not see these matters as we see them. God forbid! we should say or think that eleven men, who have taken on themselves such vows as these men have, declaring that they believed themselves inwardly moved thereto by the Holy Ghost, could recklessly violate them, for any end! There is no need for us to charge upon any one of them, so horrible a crime. Men they are—weak, erring, fallible men--needing, even in larger measure than their humbler fellow-sinners, the guiding and strengthening hand of the All-wise and All-good, in their high office! No imposition of apostolic hands, whatever grace it may convey, can relieve them from the law of their humanity. Judas was one of the twelve; but he was a man, and by transgression fell. The great apostle of the Gentiles himself, however devoted to the work of his Master—howsoever miraculously called to that great work—continued as a man, sometimes to betray the weakness of his human temper, and parted from Barnabas in anger. Our Bishops, pious and good though they may be, may fall too, into the snare of an evil mind and corrupt heart, and under such impulses, do evil deeds, unconscious it may be, of the influence under which they act. And we fear that some of them have done so here. Let us look at the facts.

They come together into the great Council of the Church to act for its good—to state each for himself, under the grave responsibilities of his office, his views of doctrine, and to impress these upon his brethren and the Church. Of strong minds, and it may be of stout prejudices—led by some peculiar bias to favour certain views as truth, and to regard others as pregnant with damnable error, they presently hear rumours, which gravely attack the moral character of a brother, who has before become prominent as a supporter of the views which they abhor. Nay, some of them will not deny, that they hold these doctrines of their brother to be of a kind, which, by favouring mere formalism in religion, tend to lay him and those who think with him, especially open to temptation; while they deprive him of the best weapon against temptation--vital, evangelical, and spiritual religion. Even if they do not all of them go this length, in their view of the obnoxious doctrines of their brother, the very prominence which he has obtained in support of them, makes him to them an object of distrust. Fidelity to their own views of truth, presupposes an impatience of opposite errors. But especially, where the views of the brother have led him

to do an official act which they have deemed it their duty to protest against, is their impatience of his errors exasperated by apprehensions of the consequences which may flow from them. Now, men in an humbler station than theirs, might easily, under such circumstances, be led to doubt, whether, thus prepossessed against the opinions of a fellow-man, they were quite competent to judge with entire soundness, about acts charged upon him, which, though they did not pretend to exemplify his doctrine, seemed to them, to be only the natural fruit of such a life, as such a doctrine would be likely to bring about. Under such circumstances, men in civil life would hesitate, before they ventured to take guilt as proven, as soon as charged. At least, if their mutual relations were other than those of mere strangers, and especially, if they partook in a large degree, of the character of brotherhood, either of blood or of function, they would hesitate. Now the losing sight of this plain duty of men in civil and social life, and adopting a course of conduct, only to be justified by a case of established guilt, was one of the great errors, which we lay at the door of some of our right reverend fathers.

Bishop Onderdonk tells us that he went to the General Convention, encouraged to the work before him, by the result of the labours of his own Convention. "Soon, however, it became manifest, from the deportment of several of my Rt. Rev. Brethren, that they had somewhat against me. *They said nothing!*"* Presently, one of the Bishops, (who afterwards joined in the presentment,) "suggested that I had better leave the house." But no intimation was made to Bishop O. of the ground for such strange demeanour and still stranger suggestion, beyond the fact, that there were reports unfavourable to his moral character. And when asked what the charges were, the reply was, "he was not at liberty to tell!" What! a Bishop may hear charges against his brother in office, grave enough to make him put on a cold repulsive manner towards the accused—grave enough to lead him to suggest that that brother should withdraw from the house, while he states them to all the brethren informally—and yet, when asked by the party most interested, and who if any, had the right to hear them, what they are—may reply, that he is not at liberty to tell? What! may we repeat to others a charge of criminality, which we may not tell the party charged, and that party our brother? Thank God! we live in a land, where there is no such law—no such license! Nay more, thank God! such an idea is abhorrent to the fundamental law of all society! Its cruelty as well as absurdity is apparent, and we will not insult the common sense of our readers by arguing against it. But this was not all! It became afterwards known to Bishop O. that affidavits of some kind, in support of charges against him, were in the hands of one of his brethren, (Bishop Elliott.) He requested, repeatedly, to be allowed to see them. He was refused! They were shown, without his consent, to some of his friends, one of whom stated to him his recollection of them; when he at once said they contained "misrepresentations and gross exaggerations." He asked, through this friend, (Bishop Ives,) an interview with Bishop Elliott. He was again refused! He complained again to another friend, of the cruel injustice of refusing him a sight and hearing of the charges;

* Bishop Onderdonk's Statement, p. 5.

and again humbled himself to implore an interview—an opportunity of explanation, and was again refused!! All that he could obtain, was a promise, that before Bishop Elliot would act as a presenter, his request should be met. And the only redemption of this pledge that was ever made, consisted in a message from the three presenters, received at 10 o'clock at night, on the 5th November, with not a copy of the affidavits, but a document, containing the charges intended to be embodied in the presentment, and a verbal message, that they would hear any communication from him, at ten o'clock the next morning!*

Now, we ask, is all this sober truth, or enormous fiction? Here are men, sane men, wise, learned, and pious men! Bishops of the Church! hearing charges against a brother in Christ, which are ruinous to him, and disgraceful to the Church. They refuse to see him or hear him, though told he can show them his innocence; they refuse his request, time and again; and, at length, having concluded it was their duty to put him on trial, give him from 10 o'clock at night to 10 o'clock the next morning, to show cause (if any he can) why they should alter their minds; and then, on being remonstrated with on the shortness of the time, vouchsafe him one more day!* Why, the very stones cry out at this! We stand amazed, aghast, at such a revelation! The commonest and vilest felon at the tombs is better treated than this. The most notorious prison-bird, the thief, the burglar, the violater of women, the parricide, cannot be committed to prison for trial, till he has had the opportunity of hearing the charge against him, and being examined with the presence of his counsel, before the magistrate! If he can there show his innocence, he goes forth unquestioned. The law—the law made by worldly man, for worldly man's own social ends—will not allow him to be put on trial even, till this right of his has been enjoyed! And shall the ministers of Christ, and the rulers of his Church, be less merciful than the law? less considerate of their brother in the Church, than the human law is of the greatest villain in the world?

We repeat here, that we charge upon these Bishops no design to do wrong, wilfully; and we refrain from doing so, because we can account for their conduct by an exercise (liberal though it may seem) of charity, on other grounds. They did this intolerable wrong, because they took an erroneous view of their duty, as presenters under the canon.

The Presenting Bishops appear to have entertained the idea that their duties, in that capacity, were closely assimilated to those of the Grand Jury of a Criminal Court. But they do not, judging by their doings, appear to have had any very precise notions about the functions of such a body. From their letter to Bishop Onderdonk, on the 10th page of his statement, we find that they laid down these three points, as the result of some deliberations in the House of Bishops on this subject:—

"1. That the three Bishops presenting occupied very much the position of a Grand Jury, who are to take care that the evidence submitted to them was such as to make out a prima facie case against the accused.

"2. That these Bishops should not be considered justifiable in presenting, except on the testimony of responsible persons, delivered before them-

* Bishop Onderdonk's Statement, p. 12.

selves personally, or duly witnessed before some civil magistrate, qualified to administer an oath.

"3. That the acts charged, or if constituting a sequence, some of them, at least, should come within a period of time not barred by an equitable statute of limitations."

And in the same communication, they say, (p. 11,) "Since our arrival in New-York, we have not been *collating*, but *receiving* and *sifting* testimony; *and by this caution, have been enabled to clear up satisfactorily, to ourselves, one of the most disagreeable of the charges* which has been laid before us."

And again,

"Our desire is, we repeat it, for your sake, and the Church's sake, to bring out the truth, and nothing but the truth, *and to pray you to help us in it.*"

Now, before we examine the reply of Bishop O. to this communication, there are two or three points which need to be settled.

We suppose that there is no maxim of common sense or of law better founded, than that no man is to be assumed to be guilty, until he is *proved* to be; and as a necessary consequence, no man is lawfully to be required to prove his innocence. The onus probandi is always upon the accuser. Now, it is not true, either in theory or in practice, that a Grand Jury is precluded from looking into matters which go, by showing the improbabilities of an accusation, to throw doubt upon a charge. Because, if they were permitted to do no more than hear the charge, duly attested by the oath of an accusing witness, no bill could ever be ignored, and the institution itself, of a Grand Inquest, would become a cumbrous farce. True, the party charged may not be summoned before them; but the reason of this is found in the merciful maxim of the law, that no man shall be compelled to criminate himself. Yet, it is their plain duty to weigh well all the circumstances, direct and collateral, of any charge, before they find a bill. Still, it is undeniably true, that there is such a limitation of their discretion in this matter, that it is, in many cases, impossible to lay before them evidence that would go to show conclusively the innocence of a party charged; or by a clear exhibition of the malice or other unworthy motive of the accuser, to throw such a shade of doubt upon the charge, as might make them hesitate ere they put a party on his trial for it. And this, because they are selected from the body of the county, and in ninety-nine cases out of a hundred, never heard the names even, of the parties charged before them, or witnesses coming to sustain the charge, till the matter is submitted to them by the prosecuting officer. Under such circumstances, what wonder is it that they often present parties for trial, upon evidence which is the fruit of a well-concocted and long-resolved conspiracy—evidence which, when it comes to be sifted by the counsel before the petit jury, sometimes turns out to be so flimsy, or so evidently made for the occasion, that the party goes forth from the Court acquitted, without being called on to produce his own evidence, in rebuttal of the charge.

Now, it cannot be pretended, as it seems to us, that any such restrictions and inconveniences as these are properly imposed upon Bishops presenting under the Canon, one of their own order for trial.

The relations of the parties to each other are widely different from

those between the Grand Jury of the county and an inhabitant thereof, charged with an offence; and a difference of relation involves a difference of obligation. Our duty to our wife is very different from our duty to our brother, and our duty to our brother very different from that to the stranger within our gates. In the Christian sense, all mankind are brethren, and we owe to them all, the duties of brethren, in the discharge of Christian offices of love. But no man will mantain, that when discharging a function of the law to a brother in the Christian sense, we are bound by the same responsibilities, as when discharging a similar duty to a brother of our blood. And in proportion as the relations between parties approach to this point of nearness, either in kind or in degree, the duties of each to the other become impressed with higher sanctions and admit of, nay, demand a more enlarged sympathy. The law makes it a felony in the citizen to compound a felony, and stamps the concealor of the crime, as an accessary after the fact. But what would be thought of any man, who handed his own brother over to the officer, for a crime of which he was clearly guilty? Especially what would be thought of him, if he, before doing so, either positively refused to hear that brother's statements and explanations, or cumbered his reluctant consent to do so, with conditions that made the condescension valueless? Now, to our minds, the body of Bishops is, in many most essential particulars, closely assimilated in character and constitution to a family of brothers—whose Father and Head, though invisible in Heaven, is continually present with them, and rules over them through the gracious influences of his Holy Spirit. If any of these have aught against their brother, their first duty is to go to that brother, *and tell him.* Having told him, the next duty equally imperative, is *to hear him!* Having heard him, they must *weigh well* what he says, and finally, in the exercise of a sound and calm discretion, with the fear of God before them, do whatsoever duty shall require. While on the one hand, they are not to suffer a manifest criminal to escape the punishment of his deeds; on the other, no maxim of the human law, no dictate of common sense, and no injunction of the law of charity, require them to listen patiently and with greedy ear, to the gossip or the malice of idle and vicious slanderers—but all these considerations, (it would seem,) should make them shrink with suspicion from their tales; and especially, if, for any reason, they had good cause to suspect the motive of these accusations to be a bad one—they should feel bound to scan them closely. In one word—if a charge be made against one of their number, by a party who is not liable to any suspicion of evil motive; by one who has never had any cause of complaint, real or imaginary, to excite him to anger or to stimulate him to revenge; by one for whose conduct in the matter not only no improper motive is supposable, but every proper and righteous impulse is manifest;—their first duty after hearing the accuser, is to tell, and hear the accused—and to ponder what he shall say in reply. Because, a scandalous charge against a Bishop, no matter with what zeal and holy indignation, his brethren proceed to purify their body by casting out the delinquent, always gives a handle to the ungodly, which they will not scruple to use against the whole Church. Nay, excessive zeal, to destroy a brother under such an imputation, is not unfrequently, itself, used by such, as an argument against them who manifest it; and

attributed to a desire to drive from themselves a possible future accusation, by laying up against the day of wrath, a store of holy professions and hollow seemings, which may scare the timid from a *proper* prey. In common life, the loudest professions of virtue and the most indignant reproaches of vice, are too often found to be the sheep's clothing, that to the superficial suffices to disguise the wolf. And since such effects are sure to flow from the promulgation of a disgraceful charge against a Bishop, how strongly are his brethren admonished to be careful exceedingly, that no act of theirs give countenance to such a charge, until the path of duty is made plain, and the possible damage to the cause of true religion from the mere mention of it, is over-balanced by the graver consideration of their imperative duty, to punish him who is guilty. And finally, to this point, not only the dictates of common sense and the impulses of brotherhood distinctly agree, but the express injunction of the Saviour himself is conclusive.*

The three presenting Bishops, in their letter to Bishop Onderdonk, furnish, themselves, a strong argument for the duty we have thus been endeavouring to urge. They say, themselves, that by sifting the testimony —they do not exactly say in what manner—but by sifting the testimony they were enabled to clear up, satisfactorily to themselves, one of the most disagreeable charges that had been laid before them. They do not tell us what this charge was, and we are at some loss to divine, what sort of a charge it could be, that was more disagreeable than some of those on which the Bishop has been convicted. But let that pass. The important fact stands admitted, that they did succeed in disposing—with good conscience, we are bound to believe—of at least one disagreeable charge. Now, this was done without Bishop Onderdonk's help; farther than that may be implied from the reflection, that he would doubtless have denied it, if they had told him what it was. Couple this admission with their own declaration of their own views of duty as presenters, and it becomes very pregnant of suggestion as to what was their duty, in all the other cases.

According to their own views of this duty, they could only present for trial, upon charges made by responsible persons, duly attested by an oath. This charge, therefore, was rejected by them, either because nobody was hardy enough to attest it by an oath, and incur the risks of perjury; or else, because even with the oath, it was accompanied by circumstances that disproved the oath. Now, in the first case, the refusal of the oath by an accuser, who, however, did not hesitate to make the charge, was evidence of nothing less, than a determination to destroy Bishop Onderdonk by foul means, if fair ones were found insufficient. It was evidence of base conspiracy to ruin an innocent man—innocent at least, quoad this particular charge. It is fair to conclude, since all the charges are of the same character, that it was a charge of licentiousness. Since then all the charges were of the same character, (with only one exception that is stated,) prudent and careful men—(men of the world at least)—would have been a little shaken, perhaps, about the rest; and especially would they have been shaken, when authoritatively informed, that the party charged could show his innocence.

* Matthew xviii. 15, 16, 17.

But if the oath was taken, and the charge sworn to by the accuser, and yet notwithstanding, the evidence to support it was so contradictory, that it could not stand; or the charge itself involved a physical impossibility, that proved it to be a lie—the reasons for hesitancy became all the stronger, even without Bishop Onderdonk's intimation to them, of his ability to show them he was innocent.

Why then, let us ask, in sober sadness, of the Right Reverend Presenters—was Bishop Onderdonk denied the plain right of every criminal, to an examination and a chance of explanation, before the committing magistrate, ere he was branded with the charge, under the sanction of their names, and put upon his trial? His plea of innocence was general—not confined to any particular charge. Why was he not allowed to see the affidavits—or to hear them read? Why was he not allowed at least, the right of choosing himself, the friends to whom they should be shown? And finally, why was he cruelly mocked by the offer of twelve hours, from ten o'clock at night till ten o'clock the next morning, to put in his explanations? Why was that offer, mockery though it was, unaccompanied with a copy of the affidavits—full particulars of the names of the witnesses, the place where, and the time when, the offences were charged to have been committed? Can any apology be given for so scandalous a denial of the rights of a defendant, that will stand the test of reason? If so, let us hear it; in the name of justice, which we hold to have been refused!—in the name of common decency, which we hold has been outraged!—in the name of charity, which has been violated!

In the next place, as to the constitution of the court, and the duties of its members. Here the analogies which obtain in the case of petit juries with those of Bishops as triers, are very obvious. Certainly it will not be maintained that a man, because he is a Bishop, is better qualified to judge dispassionately of the case of his brother, with whom he is, and has long been at variance—than a respectable man in society, having an interest in money, however small, in the event of a suit, is to sit upon a jury in which that interest may become a question. Yet the merciful human law, will not suffer such an one to be even a witness, for or against the party, until his money interest in the event of the suit is extinguished—much less will it suffer him to go into the jury box. It is too wisely distrustful of human infirmity. A criminal, charged at the bar of a human court, with a capital felony, is so tenderly considered, that he may challenge any man who comes to the jury box, and have him examined as to any possible bias in his mind, before the law admits his competence to sit on the case; and in the event even of the prisoner's inability to establish the fact of the existence of such a bias, yet if he himself still think that it does exist, and to such a degree as to endanger his safety, the law allows him a certain number of peremptory challenges—which send away the juror, without the possibility of his taking a seat in the box. Such is weak man's law; such is the care with which that law protects the safety, of even the vilest felon. The propriety of it, is too obvious for comment. But in the case of the Court of Bishops, there is no provision for any such exclusion of personal pique, or private bias. To be a Bishop, and not a presenter, is enough to qualify any one to try a Bishop on a capital charge: for we presume, no one will cavil at the word "*capital*," when the charge,

if proven, not only destroys his usefulness, but is followed by absolute ecclesiastical death. Bishops, as we said before, are still only men—and in view of the position of their brother of New York, they will admit, very fallible men. At least they are not free from the danger of grievous error, both in life and doctrine. That deceitfulness and desperate wickedness of the human heart, of which the Scriptures tell us, is a law of their being, as well as of ours. Earnest in the advocacy of their opinions on subjects to them as to us, of vital importance, they are very apt to judge far from wisely, of matters which cannot be adjusted to their own favourite standards. Nor are Bishops any more fond than laymen of opposition, either to their theories or to their acts. And of all odiums, the odium theologicum, is proverbially the most easily exasperated, the most hardly to be appeased. The evil passion too, is apt to be more heated, as the party against whom it is excited is more prominent; and therefore, to the view of his opponents, the more dangerous. A weak man may hold the most ultra opinions; but if he have not capacity enough to give them utterance, or his position give him no opportunity to reduce them to practice, he may escape the wrath of opposing Doctors, and gain immunity from contempt. Nay, in his case there would be little cause to apprehend that his wrong opinions could so irritate his opponents as to endanger the cause of justice, if he were brought before them on an accusation. But not so with a strong man. His very vigour makes him an object of dread, as well as abhorrence: and his opponents are too apt to think, in their horror of his heresies, that they will do God service in compassing his ruin. So Paul thought when, before his conversion, he persecuted the saints; and doubtless so have thought many good men since, in the blindness of their hearts—Catholics, Protestants, and Witch-finders, all the world over. And, the errors of such, are all the more deadly because they are unconscious of their own weakness.

Now if there be any soundness in these views, and we suppose they cannot be controverted; can we resist the conclusion, in view of the position of some of these brethren towards the Bishop of New York, that they ought in simple justice, to have been by express provision of law, excluded from the court; or in the absence of such a provision, that a humble sense of the infirmity of their human nature, in the recollection of their previous complaints against the Bishop of New York, should have constrained them to leave the decision of his case in calmer and less prejudiced hands? We repeat once more, that we are not disposed to charge upon any one of them, any intentional wrong. But believing as we do, that whatever was their design, a great wrong has been done, we wish to show how all this has been brought about, if haply we may avoid thereby, a repetition of it.

We have seen how, in the administration of the law, the rights of criminals under accusation are guarded; even at the risk of returning them upon society to repeat their depredations. And our own experience shows every day, that however such guarding may occasionally favour a real criminal, the great ends of public justice, the safety of society and the conservation of public morals, are essentially benefited, in the long run.

Now let the reader apply these principles to the position of three of the eleven Bishops who voted that the Bishop of New York was guilty. All three of them, (Bishops Chase, Hopkins and McIlvaine,) are men of grea

eminence. The latter is especially identified with a system of doctrine, which abhors the views of Bishop Onderdonk. The other two are not quite so prominent or consistent in that opposition; having been sometimes found on what is called the High, and sometimes on the Low Church side of the argument. But all three of them are, publicly and avowedly hostile to him, on the ground of the Carey ordination—all three have publicly arraigned him for it in the newspapers, in books, and before Diocesan Conventions—one of them voluntarily pledging himself to strive to root out the heresy, which could justify the ordination. And one other, the venerable Presiding Bishop, in addition to the offence which this ordination gave him, has attempted to justify what was considered his irregular procedure in the newspapers, by recalling to the recollection of Bishop O. an offence committed by him, when a presbyter, some 10 or 15 years before, in writing a pamphlet against one of the acts of the Bishop of Ohio, where Bishop Chase then had his diocese!

When we recollect that had Bishop Onderdonk been before the Court of Sessions on a charge of a capital felony, or indeed of the slightest misdemeanour, neither of these gentlemen could have been allowed to sit as jurors;—nay, that if the trial had been an action for damages to the amount of $50, they could not have so sat; is it not obvious that they ought not to have done so in a case, where in addition to the right of a juror to pass on the evidence, they were clothed with the functions of a judge, to award the punishment, and the capacity of executioner to inflict the penalty—and all without appeal? To us the wonder seems, how any other idea could for one moment have been entertained. To deny the position, seems to us absolutely shocking, unless it can be shown that violent and exasperated theological disputes have a tendency to calm the feelings, sober the minds, and allay the prejudices of those who engage in them. Trusting too readily, therefore, to their own strength to enable them to overcome such tremendous obstacles, they rushed to this unhappy examination; and whether we judge finally that the verdict ought to be confirmed or not, did a most unwise, a most unsafe act, which no cause can justify—which all men of cool, and cautious, and honest minds must condemn. Must condemn, we say; because if there be no control or limitation of the right to be a trier of a brother Bishop, beyond the fact of being oneself a Bishop, there is no man safe from utter ruin, except so long as he can command a majority which favours his theological opinions: and then party is elevated to the place of piety, and morals are made to depend upon votes.

We have thus far kept out of view entirely the reported evidence on the trial, and the opinions of the Bishops. What we have said above, we hold to, whether Bishop Onderdonk be guilty or innocent. We have asserted maxims of common sense, and of law founded on common sense, that are of general application, and irrespective altogether of our judgment on the facts of the case, as proved on the trial. The doctrines we have asserted commend themselves to the adoption of mankind, not only as the means of detecting guilt, but also of protecting innocence. The course they indicate has proved, on the whole, the great safeguard of society from the malefactions of the perverse—no less than the palladium of the innocent, assailed by secret foes and dark conspirators. They cannot be unheeded, without danger to the whole fabric of social life. Why, we ask again,

have they been so needlessly, as well as grossly, violated in this deplorable case?

From our foregoing reasonings, we gather these three conclusions:

1st. That the evidence of the parties concerned not only proves, but admits, that the proceedings against Bishop Onderdonk would not have been instituted, had not the ordination of Mr. Carey happened, to create an excitement, that made the time "*propitious*" for an investigation into the moral delinquencies that were charged upon the ordainer!

2d. That the investigations of these charges, preliminary to a formal presentment, were conducted in a manner unheard of till now, in any criminal proceedings; were in plain derogation of the rights of the accused, and in violation of those principles of justice which are guaranteed to every felon, before he can be put on trial; and that they stand unjustified by any public or ecclesiastical necessity.

3d. That men sat upon the trial as jurors and as judges, and now stand as executioners of their own award, who, by the plainest principle of the common and statute law, could not have been allowed to go into the jury box, much less to sit upon the bench. That their purity of motive, (even if fully admitted,) does not relieve their act from all the dangerous character of a grievous wrong doing, and that the necessary consequence of so improper a procedure, will be, even where the party charged is clearly guilty, to stamp all that they do with the character of persecution—to deprive their most solemn adjudications of any claim to public respect—and to bring themselves before the bar of a sober, enlightened, and strong public opinion, as men whose ignorance or disregard of the plainest dictates of delicacy and duty has deservedly subjected them to the severest censure of every right-minded man.

Before entering upon the great question of the guilt or innocence of Bishop Onderdonk, as deducible from the records of testimony, we have one or two remarks to make as to the bearing of that record upon the points we have endeavoured to establish.

And first as to the question of conspiracy. Here is a tremendous charge against a Bishop, who, for the greater part of half a century had borne himself in the various grades of the ministry without impeachment. This charge is, according to the requirements of the Canon, embodied in a Presentment. Before that Presentment can be made—the charges on which it is founded must, by the understanding of the three Bishops—be testified to on the oath of a responsible party. Some of the specifications of the Presentment we know were so supported, for we have the affidavit of Mr. Butler, on p. 127, that of the Misses Rudderow, pp. 129, 130; and that of Mr. Beare on p. 130. These are the foundations respectively, of Articles 1, 2, 5, 6, 7 and 8. Article 3 is publicly reported to have been drawn upon an affidavit of a clergyman, of some prominence in the Church. Who was that clergyman, and why is his affidavit not published? We are bound to believe that Article 4 was based upon another affidavit, by somebody. Who was he or she, and why does not the affidavit appear? We are bound to the same conclusion as to Article 9; which, though very properly thrown out by the court, does yet present as grave charges as any of the others. Who made that affidavit, and where is it? These are not idle and useless questions. An explanation of these matters is essential to the

purity, and the honesty of these proceedings. Guilty or not guilty, it is the right of Bishop Onderdonk to have these papers, or at least, to know the names of the parties, who are responsible for them. Especially so, as to Article 9: because there was enough in the other articles, Heaven knows, if they could be established, to damn any man for ever. And therefore, even with a name, there was no need of that article. But with or without a name, its only possible effect could be, so to overwhelm the Respondent upon the other articles, with the weight of odium, as necessarily to encumber him in his defence. With a name, therefore, it is utterly unjustifiable and unfair, to allege it at all; and without a name—persecution is quite too mild an epithet, to characterize its introduction. There is no resisting the conclusion, that it was resolved, the Bishop should have no chance for escape; that if conviction should happen to fail upon the definite counts of the Presentment, there should be one so sweeping and general, as to cover all possible grounds of attack, and leave the slightest possible chance of defence. The Presenting Bishops owe it to their own characters to explain this matter—and to explain it, on grounds, consistent with any rational view of their duties, as Prosecutors under the Canon—to say nothing of their fairness as honest men, and their consciences as Christian priests. Unless they do, there is no phrase in our vocabulary, that can adequately express, the detestation and abhorrence which their refusal will excite. As to Article 3, if there was an affidavit—the evidence shows us, that it swore to a—lie! whether intentionally or not, does not appear. And we have a right to conclude the same as to Article 4. Let the authors of these affidavits then be known, that if they have lied, they may receive the reward due to such conduct. Or if they have unintentionally erred, that they may show, how their error arose; and do what honest men would be anxious to do, we think; and repair to Bishop Onderdonk, as far as they can, the evil their charges have done him, by helping to poison the minds of his judges against him.

On the ground only of a conspiracy by somebody, to ruin Bishop Onderdonk at all hazards, is so grave an omission as we have here adverted to, to be accounted for. If indeed a "conspiracy" did exist, it will not do, to say that it is a matter of no consequence; and that the only thing to be looked at, is the truth or falsity of these charges. With submission, we undertake to tell the counsel for the Presentment, it is a matter of *great* importance—because it is a matter that goes to the credibility of all the evidence. The existence of a conspiracy to put down Bishop Onderdonk on account of his doctrines, upon *pretence* of his immoralities, will account for much that in this case is unexplained. It tells the whole story of the secret motive for the evidence; it accounts for all the venomous exaggerations and distortions of innocent acts into heinous offences against decency. It supplies, what nothing else does or can supply, the true interpretation of all this matter. Therefore if it be true, we undertake to say it is matter of the very first consequence. That it is true, we have no doubt, from the evidence already before us. Of all things, a well managed conspiracy is the most difficult thing for the victim of it to prove. Its very objects suppose and require secrecy. They are sure to be defeated by openness. It courts the dark, as it grovels in filth. Occasionally, some indiscretion of its tools lets out the fact of its existence; but they are al-

most always too well selected, to permit all the means it uses, to be detected. Mr. Trapier has sufficiently disclosed it in his pamphlet. Not that we accuse him of being a conspirator. From all we learn about him, he is a conscientious man, who would not wilfully do wrong. But he is one of those weak men, who easily become the tools of more wary and less scrupulous plotters. Puffed up with a notion of their own sagacity, and resolved upon displaying on all occasions their own independence of party trammels; such men are always the first and readiest prey, of the schemers of a hostile faction. They are the tools with which conspirators work.

Even without Mr. Trapier's pamphlet, there is strong circumstantial evidence of conspiracy. Does not every one comprehend, that before even the witnesses produced on the stand, (by whatever motive they were actuated,) would have consented to testify, they must have been given to understand, that the proceedings of the court would be secret—and that there would be no exposure of the witnesses except before a body of venerable Bishops? Mr. Butler evidently had at one time little disposition to testify, and some feeling of this kind must have been seen; or else, what means Mr. Gallagher's assurance in his letter on p. 27 of the trial? "Your evidence would not be given before a Convention agitated by party feeling, but before a Court of Bishops, where there would be no occasion of publicity, or danger of an unnecessary infringement of delicacy!" Or if there was no conspiracy—what made it important that this case of Mr. Butler, the oldest of all, should be given, after he had heard from Mr. Gallagher, in explanation of his (Gallagher's) letter, that the other cases were of similar character? But farther—from this letter of the Rev. Mr. Gallagher it appears that Butler told him the story of his wrongs in 1839, at Palmyra. This must have been done under injunction to secrecy, for Mr. G. goes on to say, "I had regarded this in so confidential a light as never to have mentioned your name in connection with that of the Bishop, save on one occasion, to our common friend the Rev. Stuart Hanckel, and that accompanied by the strictest injunction of secrecy. I find however that Mr. Hanckel has inadvertently communicated the affair to Mr. Barnwell, who not being aware of the confidential nature of the communication, felt it to be his duty to make it a subject of inquiry." Why here is the very staple of conspiracy! John Doe tells Richard Roe of a crime committed by John Smith against Doe, but enjoins him to secrecy. Roe knows very little about Smith, and has no spite against him, when the story is told, and he then has no object to gain by exposure. But some years after, circumstances change; Smith becomes prominent in the world, and in some way or other becomes an object of dislike to our friend Roe. The story that Doe had told him, has now grown somewhat venerable; and Roe can't tell it openly. An honest man bound to secrecy would not tell it, at all. But *as a great good may come from its being known*, Roe concludes he may just tell it to one man. Only break his obligation of secrecy—just a little! He accordingly tells it to John Jones, who by the strangest coincidence in the world, happens to hate John Smith, even worse than Roe does; and John Jones, by an equally strange "*inadvertence*," tells it to Peter Wilkins, who hates John Smith, worse than any of them! He not being under any bond of secrecy, deems it to be his duty to have the matter inquired into! Is not this the way, ever since slander had a

definition in the books, that it always gets about? Was there ever a slander got up to ruin a man, that did not originate, in some violation of the confidence of friendship, brought about in the same way, and attempted to be justified on the same reasons, as this?

But take another case—that of the 3d article of the Presentment. We asked above, who was the clergyman that made the affidavit, and Mr. Ogden in his summing up of the evidence, on p. 221, more than intimates that it was the Rev. Dr. Hawks. And this disclosure at once accounts to us for the very remarkable passage of Mr. Memminger's letter to Mr. Trapier, on p. 21 of his "Narrative," which appeared to us, when we read it, so needlessly to drag in the name of Dr. Hawks, for the first and only time it is mentioned. We wondered at this apparently needless, anticipatory defence; but it is now plain enough. Dr. Hawks, *had* had something to do with the matter. The fact that he had, had been alluded to on the trial; and hence the introduction of this letter into the narrative. Now if it were Dr. Hawks who made the affidavit—he swore to positive untruth. Whatever was sworn to, was so deposed upon the ground of communications made by the Rev. Mr. Bolles. And Mr Bolles swears positively* that he told nobody anything at all about this matter, except Dr. Hawks, before they two went to the Bishop's, in consequence of the story in a form strongly *exaggerated* having got abroad. At this interview, Mr. Bolles swears also, that he corrected Dr. Hawks' misstatements of the affair. Moreover he swears, that the story as he relates it on the trial, was precisely the story to which, in this interview, he *corrected down* the exaggerations of Dr. Hawks. Again, on p. 35 of the trial, he swears in reply to a question of Bishop Gadsden, about the indecencies alleged in the Presentment, that that document was drawn up without any consultation on the subject with him; and that he saw no indecent liberties or any thing that could bear that name. Now this we must take to be true; for on no rule of law or of common sense can the Presenters be allowed to impeach a witness, called by themselves. But, if it be true, whence the allegations on which the Presentment was based in this case? No exercise of charity, can attribute them to anything but wilful and deliberate misrepresentation. If the affidavit was made by Dr. Hawks, his position is at once defined. If by any one else, in consequence either of his or others' misstatements, what is proved, but a conspiracy—to ruin the Bishop, upon a charge known to be false by its originators?

But again: Helen Rudderow swears on page 46, that she told Jas. Richmond of the insult to her in May, 1843. And he tells us on page 5, of "his conspiracy" in a letter to his brother, written the next morning after the Rudderow story had been told him, that he "could now prove by *several* competent, trustworthy and undoubted witnesses, that the O. T. B. is, and has been *often* and *often*, guilty of the grossest indecency." Wherefore the communication from Miss Rudderow, was no new *knowledge*, but only a new *instance*. Why then was this knowledge not made the subject of a presentment, before the Carey ordination, which happened in the summer of 1843? Does any one believe, who has ever heard of James Richmond, that *he* never talked to anybody about it? Certainly not. But perhaps it will be said, even if he did talk about it, nobody

* Trial, p 37.

minded what such a crazy fellow said. That, however, will not solve the difficulty; because we find in Bishop Onderdonk's letter to the Presenting bishops on page 13, of his statement, that he speaks of "plans and efforts for obtaining the presence and services of the Rev. J. C. Richmond." And besides, the *affidavits of the Rudderows are in the handwriting of this very Richmond.* Now then, this man is either sane, or he is crazy. If he be sane, his evidence is to be received as conclusive; and he *admits* the conspiracy. If he be crazy, what rational ground is there, to account for his being employed, other than the ground of conspiracy? Of conspiracy we say, that from this fact alone, if there were no other, shows at once the character of the plot, and the morals of the means that were used to effect it.

Once more: we suppose the true end of all such investigations as this, is to ascertain the exact truth, without favour or prejudice. We suppose it is no subject for what in litigations in a law court, may be called a triumph. For as we have already shown, the duties of the Presenting Bishops are in important particulars, widely different from the functions of a Grand Jury; and that their superior duty as Bishops of the Christian Church, is to "be so merciful, that they be not too remiss; so to minister discipline, that they forget not mercy." (Consecration office.) Now then, why in the first place were the strange denials of an interview, and of a sight and hearing of the charges against him, made so often to Bishop Onderdonk by the Bishop of Georgia, after entreaties which one would think, would have moved the heart of a stone? Why was the name of Mr. Peck, an important witness in the Butler case, kept from the knowledge of the Bishop and his counsel, until it came out on the trial? Why, the absurd farce of the vote on the motion of the Respondent's counsel, (recorded on page 54,) to direct the Presenting Bishops to grant them access to the depositions on which the Presentment was founded? Why was this so reasonable request voted down; and why, after it was voted down, the still more absurd farce of this same Bishop of Georgia, rising and offering the very thing which had been just refused by the court? It was a reasonable request, and ought to have been anticipated—or an unreasonable one, and properly refused. If reasonable, why questioned at all—why resisted—why debated? If unreasonable and improper, did it become reasonable and proper, after the court had by a solemn vote refused it? This surely will not be pretended. What then is the only rational solution of the matter? None can be found but the ground of conspiracy. Surely it was not justice: for it asked but the guaranteed right of a murderer, to know and to face his accuser!

Finally, it is sworn by Butler on page 23, that he told his story to Bishop Meade in the spring of 1840! and to Dr. Henshaw in the winter of 1840–41! Whether there be any other Dr. Henshaw, than the present Bishop of Rhode Island, we do not know, and therefore as at present advised, acquit that Right Reverend Prelate of the heinous guilt, that in our judgment attaches to his brother in office. Bishop Meade, however, is directly charged by his own witness, of having knowledge of this thing in the spring of 1840. And of course he knew it with the aggravating circumstance of the pulling up of the clothes, which Butler swears was always his understanding of the affair, until his wife corrected him *after*

his affidavit was made. Now, we ask, was this offence any less heinous, when it was fresh, in 1840, than now, when it is comparatively stale, in 1844? That will not be pretended. But if not, what is the position of this Bishop? Knowing so horrible a charge, having, so far as appears, no reason to doubt it—he, in violation of the most obvious duty, is silent about it, so far as trial goes, for nearly four years, and then joins in a presentment upon it, when the accused had become odious to him and his party, by reason of an act growing out of his theological opinions! We will not dwell on this most painful theme. Our very heart is sick within us at the position of this venerable father.

We now leave this question of conspiracy. We have dwelt at this length upon it—in the double persuasion, that while it adds force to whatever the defence is able, under the circumstances, to adduce in disproof of the charges—it is especially important in settling the great difficulty of accounting, by a sufficient motive, for the complexion of the adverse evidence.

We have read the evidence both on the direct and cross examinations, with profound attention. As far as we can judge of our own impulses in the matter, and as far as human infirmity would enable us to attain that state of mind, we have read it impartially—and with a single eye to the ascertainment of truth. And we are willing to stake whatever reputation we may have, or may acquire among our friends, for sagacity and fairness, upon the assertion which we now make, that there is in the whole of it, nothing to justify the verdict—nothing to call for even the slightest form of admonition to the Bishop, on the ground of impurity. We say, solemnly, and attesting the Most High, for the truth of what we say—that *upon this evidence* we hold the Bishop of New York an innocent man. We say this without any mental reservation; and with a devout and thankful feeling to our Father in Heaven, that as conscientious and reasonable men, we are able, after reading it, to place the same confidence in our spiritual father on earth, that we have heretofore reposed in him.

The evidence in support of the Presentment, presents these remarkable phases:—

1. It is cumbered in all its minor points with the gravest improbabilities.
2. It is filled on every hand with fatal contradictions.
3. It is, upon the leading charges, in each article of the Presentment, based upon moral and physical impossibilities.

These points are so ably established by the summing up of counsel, and enforced in the opinions of various of the Bishops, that it would be a waste of the reader's time for us to repeat their arguments, at the risk too, of weakening them. We prefer to address ourselves in what remains for us to say, to other matters; only laying down in reference to the above points these general propositions, in which an able writer in the Mirror has somewhat anticipated us.

The idea that any man, the most reckless as to character—or the most courageous as to consequences, (being at the same time a sane man,) ever took such liberties as are here charged, even with a woman whom he had occasion to believe not indisposed to suffer them patiently, in the presence of that woman's natural or legal protectors, whose disposition to connive

at the outrage he had no reason to calculate upon, is a monstrous improbability, which staggers the most credulous belief. But to maintain, that such a thing ever happened under similar circumstances, in the presence of strangers, of mothers, of brothers, and of husbands, where there was no reason to authorize the party to conclude, such an outrage would be tolerated an instant, is by no means a monstrous improbability that staggers the most credulous belief—but *simply an absolute impossibility*, that defies any belief at all! The common sense of any man who wears a beard, laughs it to scorn! The instinctive virtue of every modest woman, at once, pronounces it a lie!

But again—No virtuous woman, and here we mean to be understood, even as limiting the term to those, who are virtuous in deed rather than pure in thought, and who are restrained from vice rather by a dread of its consequences than by inherent purity—no *such* woman ever yet put herself undisguisedly and openly in the power of the man who had once insulted her, and asked of him a favour. We by no means intend to impeach the character of any one who has deposed to so astounding a statement as this; but we do claim the right to state it as an argument, to show that the mind of such a witness has been warped from its original impressions of the truth; and in anxiety to state a matter, strongly enough to *meet a present object*, has uttered what is not fact, either as to the insult or the subsequent visit.

But that any man, elevated in any degree above the merest brute in intelligence, ever dared the tremendous risks of such outrages in the *combined* presence of relations and friends—in the same room—on the same piazza—in the same carriage—in the day time, or at any time—is what no sane man can believe, unless his condition of feeling towards the party accused be of that deadly hostile character—that it is enough simply to allege any charge against him, to secure at once not belief of it, so much as action upon it.

To our minds then, in view of the momentous topics which we have so imperfectly discussed, there is no avoiding the conclusion of the entire innocence of Bishop Onderdonk, of any act that can be justly open to impure construction. His own admissions as to his own manner towards all who approach him, and especially to the young; and what we ourselves know to be his uniform reputation in that behalf, furnish the true key to the whole business. Of a most kind and paternal heart, and of a too unsuspecting disposition, he has undoubtedly, often and often, caressed with the manner and the warmth of his affectionate soul, very many members of his flock, who have grown up under his eye. We do not call this indiscreet, even though the result has shown it not to be safe in all quarters. We are willing to admit, that it might as well have been avoided. But between indiscretion of this character, and guilt showing impurity of the heart, is a wide distance. There is a "great gulf" between the two; and whosoever testifies that it has been overleaped in her case, without remonstrance on her part, testifies to her own shame. She either admits that she is unable to distinguish between the caresses that are prompted by a pure regard, and the dalliance that marks impure desire, and so impeaches herself of almost inconceivable stupidity; or else she admits by a clear implication,

that the bounds which separate virtue from vice, are not well defined in her own case; and exposes herself to the imputation, of having said or done something, albeit without such intent, as gave note to the assailant of virtue, that "the watchman slept upon the walls!"

But we refer the reader to the testimony itself. We pass by many topics that we designed to advert to before we read the trial, because we find them fully and ably argued there. Before we conclude, we make a few brief observations on some of the opinions of the Bishops.

In the opinion of the Bishop of Illinois, the Bishop of New-York ought to be degraded, because Dr. Higbee had said, that a man guilty of such conduct deserved to be kicked out of doors.* Why this honest declaration of an honest and warm-hearted man, has been dragged into this "opinion," with a gloss that was repudiated by the witness himself, we cannot conceive; of what possible influence it could have upon the Bishop's views of duty in passing sentence, even if he had quoted the Rev. Dr. Higbee correctly, we leave to be settled by those who care more for that Bishop's fame, than he himself appears to have done, in these proceedings.

The Bishop of Connecticut declares that the facts sworn to in support of the second article, are equivocal, and the evidence of Mr. and Mrs. Butler not conclusive to his mind. "But as the facts charged have been fully admitted by both the counsel of the respondent, I have been obliged to consider him as *guilty*"!! In view of so astounding a declaration as this, we have only to say, that if the good Bishop had lived in the days of Cotton Mather himself, he would have run no risk of being burned for a wizard.

Many of the opinions are largely devoted to an examination of the question about two witnesses. This is a point on which great learning was displayed on both sides; but as far as we see, to no good end. For our parts, one witness would have satisfied our judgment and our conscience to find a verdict of guilty, as well as one hundred. The question is not how many *witnesses*, but what kind of *testimony*; and no number of witnesses can reconcile us to the belief of absolute impossibilities.

The Bishop of Kentucky gives no statement in justification of his *verdict*, but gives his reason for the sentence, in these remarkable words, p. 283:—

"The opinion of the Bishop of Kentucky is in favour of suspension—

1. Because the punishment of degradation is reserved for crime; and immorality, not crime, is here alleged and proved.

2. Because the analogy of the case of the late Bishop of Pennsylvania is so nearly similar," &c. &c.

A most marvellous opinion truly, in view of this Bishop's subsequent vote! He lays down the principle, that *degradation* is reserved for *crime*. And then on his conscience and his oath, he declares that *only immorality, not crime*, is either alleged or proved! And then this very Bishop, when the ink that wrote the above solemn opinion is yet scarcely dry, finding that only one vote was needed to effect this undeserved degradation, upon the second scrutiny, suddenly discovers that the effect of conviction destroys the Bishop's usefulness, and therefore accedes to the vote of those who

* Trial, page 262.

are in favour of deposition ! ! This same vote he continued on the third scrutiny, and thereby compelled those who thought the Bishop innocent, to vote for suspension, that they might save their brother from the greater injustice of degradation. Astonishing as much of these proceedings is, this is not the least remarkable of its wonders ! We can understand how a judge called to pronounce sentence upon a culprit, and finding his brethren on the bench inclined to a less severe punishment of the crime, than his own judgment has deemed justified,—swayed by an impulse of mercy, may accede to the lesser punishment which his colleagues are inclined to : but how he, having deliberated on the matter for a night, and having as the result of such deliberation felt bound in conscience to pronounce a milder sentence, can upon any ground consistent with reason and conscience, instantaneously jump to an opposite conclusion, we cannot understand. But if there existed a "conspiracy" to destroy this Bishop of New-York, with all the ramifications of which it was not deemed, for any reasons, safe to trust the Bishop of Kentucky, but with whose spirit he was thoroughly imbued—the explanation becomes plain and easy.

The verdict and the sentence are, as has been well observed, in tremendous opposition to each other. The finding of guilty upon such charges demanded—*imperiously* demanded of the conscience of every Bishop who voted for it—the awful sentence of degradation. Talk not to us about the flimsy distinctions of the Bishop of Kentucky between the immorality and the crime involved in these charges. The common sense, and the common decency of honest and pure men, laugh such distinctions to scorn. We cannot do better on this head than quote the strong language of the editor of the New World ; who, in an article in his paper of 11th January, has placed this subject of the discrepancy between the verdict and the sentence in its true light, and uttered his views upon it with an eloquence and vigour that commands the admiration and respect of his readers. He says, " Such a sentence," (that of degradation,) " stern, decisive, crushing—should have followed such a verdict, as the chain-shot follows the flash. No such sentence comes ; but, in its stead, another how unlike ! A mitigated sentence—an equivocal sentence—a sentence, it is said, open to half a dozen legal constructions—a sentence open under the Canon, to half a dozen legal objections—a sentence that leaves the vital question of reinstatement a debateable question—a sentence which, in its indecision and its feebleness, plainly shows that the venerable hand of the Court shook with conscientious fears as it wrote down on the evidence produced, that terrible Verdict of Guilt."

The irrevocable deed is done. The victim is bound, and lies bleeding on the altar of unholy passion. From the authors of the wrong he can have no redress,—from the judgment awarded there is no appeal. A conviction of their hideous error and enormous injustice, will come to the majority of this court, all too late to save their brother—to benefit the Church —or to help their own characters. To him whom they have condemned, the finding and the sentence are disastrous—to the diocese over which he ruled, paralyzing—but to *them*, unless our prejudices are widely ahead of our judgment, a cause of lament and of wo, in the latter days when they shall be about to go hence and be no more ! God ! send them grace to repent in time, that they may not perish in eternity !

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